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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 PAMELA MANSFIELD,

11 Plaintiff,

12 v.

13 DAWN JONES PFAFF, et al.,

14 Defendants.

CASE NO. C14-0948JLR

ORDER DENYING MOTION
FOR SUMMARY JUDGMENT

15 **I. INTRODUCTION**

16 Before the court is Plaintiff Pamela Mansfield's motion for partial summary
17 judgment. (Mot. (Dkt. # 20).) Ms. Mansfield asks the court to apply the doctrine of
18 collateral estoppel to decide certain key factual issues in this case. (*See id.*) She claims
19 that the collateral estoppel doctrine bars relitigation of factual issues that were already
20 decided once before in a Washington State administrative tribunal. (*See id.*) The court
21 has examined the submissions of the parties, the governing law, and the record, and
22 concludes that the collateral estoppel doctrine does not apply here because the parties and

1 issues are different than in the previous proceeding. Accordingly, and because there are
2 genuine issues of material fact, the court DENIES Ms. Mansfield's motion for partial
3 summary judgment.

4 **II. BACKGROUND**

5 This case began as a dispute between co-workers but has now blossomed into a
6 federal court lawsuit. Plaintiff Ms. Mansfield is a registered nurse who was employed by
7 the University of Washington ("UW"). (1st Am. Compl. (Dkt. # 1-2) ¶ 1.) She began
8 working for UW in 1994 and eventually advanced to the position of Research-Nurse-2.
9 (*Id.* ¶ 10.) In 2007, she was appointed to a lead position assisting Dr. Jerry Palmer with
10 several grant-funded diabetes prevention and treatment studies. (*Id.*) Dr. Palmer and his
11 research team conducted those studies at the Seattle office of the United States
12 Department of Veteran's Affairs ("VA"). (*Id.*) As such, Dr. Palmer and his team,
13 including Ms. Mansfield, were required to, at least nominally, be appointed as volunteer
14 employees of the VA, even though their salaries were all paid either by UW or by the
15 Seattle Institute for Biomedical and Clinical Research ("SIBCR"). (Resp. (Dkt. # 18) at
16 2-3.)

17 Dr. Palmer's research team was rounded out by an administrative aid, a lab
18 technician, and a lab supervisor. All of them are now defendants in this lawsuit. (*See*
19 *generally* 1st Am. Compl.) The administrative aid, Dawn Jones Pfaff, was an SIBCR
20 employee assigned to the team. (*Id.* ¶ 4.) She was supervised by both Dr. Palmer and
21 Ms. Mansfield. (*Id.* ¶¶ 4, 10.) The lab technician, Jessica Reichow, was a UW employee
22 assigned to work with Dr. Palmer. (*Id.* ¶ 6.) The lab supervisor, Barbara Brooks Worrell,

1 has a PhD and was Ms. Mansfield's supervisor with respect to lab work. (*Id.* ¶ 7.) Ms.
2 Brooks Worrell had design and implementation authority over Dr. Palmer's team in
3 connection with research studies funded by grants from the National Institutes of Health.
4 (*Id.*) Together, these five worked at the VA to research and treat diabetes patients. (*See*
5 *id.* ¶ 10.)

6 Over time, certain relationships within the team soured. In particular, and most
7 relevant to this lawsuit, Ms. Mansfield and Ms. Pfaff grew to dislike one another. It is
8 unclear to the court exactly what sparked this mutual dislike, but it is evident that with
9 time it became rather pronounced. To begin, Ms. Mansfield took exception to a number
10 of Ms. Pfaff's clinical practices. (*Id.* ¶ 12.) For example, Ms. Mansfield alleges that Ms.
11 Pfaff publicized patients' private medical histories (*id.* ¶¶ 12B-C), prepared doses of
12 prescription medicine without a health care license (*id.* ¶ 12E), and scheduled a child for
13 an appointment at an adults-only clinic (*id.* ¶ 12I). Ms. Mansfield makes similar
14 allegations against other members of the team, and alleges that she publicized those
15 allegations at various times. (*Id.* ¶ 12.)

16 However, the dispute between Ms. Mansfield and Ms. Pfaff clearly took on a
17 personal dimension as well. (*See id.* ¶¶ 13-22.) Ms. Mansfield alleges that Ms. Pfaff
18 physically attacked Ms. Mansfield in 2011, repeatedly slamming her head into her desk
19 then fleeing down a stairwell "as a good Samaritan tried to stop her for questioning." (*Id.*
20 ¶ 19.) She further alleges that Ms. Pfaff attempted to cover up this attack by
21 orchestrating an effort by the Palmer research team to "furnish coordinated round-table
22 testimony." (*Id.*) She alleges that this testimony not only attempted to absolve Ms. Pfaff

1 of any blame for the attack, but also tried to portray Ms. Mansfield as mentally unstable,
2 an illegal drug distributor, and a violent threat. (*Id.*) The VA police officer who
3 investigated the incident concluded that Ms. Mansfield falsified her injury report and that
4 the alleged attack never happened. (*Id.* ¶ 20.)

5 As a result of these incidents, Ms. Mansfield lost her job. VA officials concluded
6 that Ms. Mansfield could not be trusted with access to a federal facility in light of her
7 falsified injury report. (*Id.* ¶ 20.) This conclusion, in turn, caused UW to terminate Ms.
8 Mansfield's employment. (*Id.*) A UW employee named Mara Fletcher reviewed Ms.
9 Mansfield's file, including her reports of abuses by the Palmer research team, and
10 "executed UW's authorization" to terminate her UW employment. (*Id.* ¶ 8, 21.) Ms.
11 Fletcher is now a defendant in this lawsuit as well. (*Id.* ¶ 8.)

12 Several years later, the dispute migrated from the halls of the VA office to the
13 court system. In 2013, Ms. Mansfield filed a complaint in King County Superior Court.
14 Her original complaint alleged only a single cause of action for wrongful interference
15 with contract against Ms. Pfaff. However, she amended her original complaint in state
16 court, adding the rest of the Palmer research team as defendants as well as UW, SIBCR,¹
17 and Ms. Fletcher. (*See generally* 1st Am. Compl.) In addition, she alleged new causes of
18 action for negligent infliction of emotional distress, negligent supervision and retention,
19 civil conspiracy, and First Amendment violations under 28 U.S.C. § 1983. (1st Am.
20 Compl. ¶¶ 27-37.)

21
22 ¹ SIBCR has subsequently been dismissed from this action. (*See* Dkt. # 11.)

1 The United States was soon substituted as a defendant in the case. The United
2 States substituted itself as sole party defendant in place of Ms. Pfaff, Ms. Reichow, and
3 Ms. Brooks Worrell. (Not. of Substitution (Dkt. ## 3, 13).) The United States certified
4 that these defendants were acting within the scope of their federal employment when the
5 alleged torts occurred and that accordingly they were entitled to a limited form of
6 immunity under the Westfall Act, 28 U.S.C. § 2679(d)(2). (Pfaff/Reichow Certification
7 (Dkt. # 1-3); Brooks Worrell Certification (Dkt. # 13).)

8 This summary judgment motion followed the United States' substitution. In
9 effect, the motion challenges the substitution by asserting that Ms. Pfaff, Ms. Reichow,
10 and Ms. Brooks Worrell were acting outside the scope of their employment when the
11 alleged torts occurred. (*See Mot.*) Ms. Mansfield argues that she is entitled to summary
12 judgment on several factual issues related to the substitution and to Westfall Act
13 immunity. (*Id.*)

14 III. ANALYSIS

15 A. Governing Law Under the Westfall Act

16 The Westfall Act creates a species of tort immunity for federal employees acting
17 within the scope of their federal office or employment. *See, e.g., Osborne v. Haley*, 549
18 U.S. 225, 245-47 (2007). The immunity takes effect through the substitution of the
19 United States as the named defendant in a pending tort action against a federal employee.
20 *See id.* Under the Westfall Act, an action against a federal employee must be deemed an
21 action against the United States if the federal employee was acting “within the scope of
22 his office or employment” at the time of the alleged conduct. *See* 28 U.S.C.

1 § 2679(d)(1). When the Act applies, the Attorney General can certify that the defendant-
2 employee was acting in the scope of his or her employment, at which time the United
3 States is substituted as the sole defendant in the case:

4 Upon certification by the Attorney General that the defendant employee
5 was acting within the scope of his office or employment at the time of the
6 incident out of which the claim arose, any civil action or proceeding
7 commenced upon such claim in a United States district court shall be
8 deemed an action against the United States under the provisions of this title
9 and all references thereto, and the United States shall be substituted as the
10 party defendant.

11 *Id.*; *Pauly v. U.S. Dep't of Agric.*, 348 F.3d 1143, 1150-51 (9th Cir. 2003) (citing 28
12 U.S.C. § 2679(d)(1)). As noted above, this substitution happened here. (Pfaff/Reichow
13 Certification; Brooks Worrell Certification.)

14 Ms. Mansfield is now challenging the government's certification, as she has a
15 right to do. *See Pauly*, 348 F.3d at 1150-51. Upon a challenge, Ms. Mansfield has the
16 burden of proving that the conduct underlying the tort claim occurred outside the scope of
17 Defendants' employment. *See id.* Following a challenge, state law governs the scope-of-
18 employment inquiry under the Westfall Act. *Id.* at 1151 (citing *McLachlan v. Bell*, 261
19 F.3d 908, 911 (9th Cir. 2001)). "Under Washington law, an employee acts within the
20 scope of his employment, even if his acts are contrary to instructions or constitute
21 intentional torts, when he is 'engaged in the performance of the duties required of him by
22 his contract of employment' or when 'he [is] engaged at the time in the furtherance of the
23 employer's interest.'" *Id.* (citing *Dickinson v. Edwards*, 716 P.2d 814, 819 (Wash.
1986)).

1 From a procedural standpoint, this case is governed by the Supreme Court's
2 decision in *Osborne*, 549 U.S. 225. In *Osborne*, the Supreme Court addressed what a
3 district court should do in the atypical situation where the government certifies that the
4 alleged tortious acts were within the scope of employment by simply denying that the
5 acts ever occurred. *See id.* at 246-47. In a more typical case, the alleged tort might be,
6 for example, an automobile accident. *See id.* at 251 n.15. In an automobile accident
7 case, the government can ordinarily make a scope of employment determination without
8 accepting or denying the critical allegations in the complaint—for example, that the
9 employee acted negligently. *See id.* This case, like *Osborne*, presents a different set of
10 facts. Here, the government denies the allegations in the complaint—specifically, the
11 allegation that Ms. Pfaff attacked Ms. Mansfield and that she and other defendants lied
12 about it. (*See* Mot. to Dismiss at 9-11.) Moreover, the government's certification is
13 premised on this denial. (*See id.*) This is the precise situation addressed in *Osborne*. *See*
14 549 U.S. at 245-47. Accordingly, the procedure outlined in *Osborne* is the correct
15 procedure here as well.

16 Put simply, the *Osborne* procedure requires the court to resolve material factual
17 disputes as necessary to determine Westfall Act immunity. *Id.* at 248-252. Under
18 *Osborne*, the court is required to resolve facts necessary to determining whether the
19 substitution was proper. *Id.* Here, that means the court must make a factual
20 determination about whether Defendants' conduct was within the scope of their
21 respective employment. As the court in *Osborne* pointed out, this determination must be
22

1 made even if the factual dispute in question “goes to the heart of the merits,” and even if
2 finding certain facts might jeopardize an eventual jury trial. *Id.* at 251-53.

3 On this motion, the court must view factual disputes through the familiar lens of
4 summary judgment. Because Ms. Mansfield brought her challenge to the United States’
5 certification and substitution in the form of a summary judgment motion, the ordinary
6 summary judgment standard applies to it. (*See Mot.*)

7 **B. Summary Judgment Standard**

8 Summary judgment is appropriate if the evidence, when viewed in the light most
9 favorable to the non-moving party, demonstrates “that there is no genuine dispute as to
10 any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ.
11 P. 56(a); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Galen v. Cnty. of L.A.*,
12 477 F.3d 652, 658 (9th Cir. 2007). A fact is “material” if it might affect the outcome of
13 the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A factual dispute is
14 “genuine” if the evidence is such that reasonable persons could disagree about whether
15 the facts claimed by the moving party are true. *Aydin Corp. v. Loral Corp.*, 718 F.2d
16 897, 902 (9th Cir. 1983).

17 [T]he issue of material fact required . . . to be present to entitle a party to
18 proceed to trial is not required to be resolved conclusively in favor of the
19 party asserting its existence; rather, all that is required is that sufficient
evidence supporting the claimed factual dispute be shown to require a jury
or judge to resolve the parties’ differing versions of the truth at trial.

20 *First Nat. Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 288-89 (1968).

21 The court is “required to view the facts and draw reasonable inferences in the light
22 most favorable to the [non-moving] party.” *Scott v. Harris*, 550 U.S. 372, 378 (2007).

1 The court may not weigh evidence or make credibility determinations in analyzing a
2 motion for summary judgment because these are “jury functions, not those of a judge.”
3 *Anderson*, 477 U.S. at 249-50.

4 The moving party bears the initial burden of showing there is no genuine issue of
5 material fact and that he or she is entitled to prevail as a matter of law. *Celotex*, 477 U.S.
6 at 323. If the moving party meets his or her burden, the non-moving party “must make a
7 showing sufficient to establish a genuine dispute of material fact regarding the existence
8 of the essential elements of his case that he must prove at trial.” *Galen*, 477 F.3d at 658.

9 **C. Ms. Mansfield’s Collateral Estoppel Arguments**

10 The centerpiece of Ms. Mansfield’s motion is her assertion that collateral estoppel
11 resolves several of the material factual disputes in this case. (*See Mot.* at 7-10, 16-19.)
12 Ms. Mansfield argues that the key issues in this case—namely, whether Ms. Pfaff
13 assaulted Ms. Mansfield and whether Ms. Pfaff and other defendants lied to cover it up—
14 were already decided in a prior administrative proceeding. (*See id.*) She argues that the
15 collateral estoppel doctrine bars relitigation of these issues now because the issues were
16 already decided once before. (*Id.*) As such, she asks the court to find that these facts are
17 undisputed and apply the law to them to reach various legal conclusions—for example,
18 that Defendants’ conduct was outside the scope of their employment and that Ms.
19 Mansfield is entitled to judgment as a matter of law on her tort claims. (*Id.*)

20 In response, Defendants argue that collateral estoppel does not apply. (*See USA*
21 *Resp.* (Dkt. # 26) at 9-12; *University Resp.* (Dkt. # 29) at 10-14.) They assert that none
22 of the defendants named in this action were parties to the prior action and that the

1 previous tribunal did not decide the factual issues that Ms. Mansfield claims it did. (*See*
2 *id.*) As such, Defendants argue that collateral estoppel does not apply and therefore Ms.
3 Mansfield's motion for summary judgment should be denied in its entirety. (*See id.*) For
4 the reasons stated below, the court agrees with Defendants.

5 **D. Collateral Estoppel Generally**

6 The doctrine of collateral estoppel prevents parties from litigating the same issues
7 twice. *In re Jacobson*, 676 F.3d 1193, 1201 (9th Cir. 2012). If the same parties have
8 litigated the same factual issue before in a prior proceeding, they may be "collaterally
9 estopped" from litigating the issue again in a subsequent proceeding. *See id.* If a party is
10 collaterally estopped from relitigating an issue, that factual issue is considered decided
11 for purposes of the subsequent proceeding. *See id.* The purpose of the doctrine is to
12 encourage respect for judicial determinations, to ensure finality, to conserve judicial
13 resources and prevent multiplicity of actions, and to ease inconveniences and burdens on
14 litigants. *See, e.g., State Farm Mut. Auto Ins. Co. v. Avery*, 57 P.3d 300, 303-04 (Wash.
15 Ct. App. 2002); *State v. Vasquez*, 34 P.3d 1255, 1258 (Wash. Ct. App. 2001). When a
16 federal court sits in diversity, it looks to the applicable state law of collateral estoppel.
17 *Nw. Acceptance Corp. v. Lynwood Equip., Inc.*, 841 F.2d 918, 926 (9th Cir. 1988)
18 (applying Washington law of collateral estoppel).

19 Under Washington law, collateral estoppel applies only if the party to be estopped
20 has had a full and fair opportunity to litigate the issue. *Avery*, 57 P.3d at 303-04.
21 Washington courts apply a four part test to make this determination. *Christensen v.*
22 *Grant Cnty. Hosp. Dist. No. 1*, 96 P.3d 957, 961 (Wash. 2004). The party seeking to

1 apply the doctrine must demonstrate that (1) the identical issue was decided in a prior
2 adjudication, (2) the prior adjudication resulted in a final judgment on the merits, (3)
3 collateral estoppel is asserted against the same party or a party in privity with the same
4 party to the prior adjudication, and (4) precluding relitigation of the issue will not work
5 an injustice. *Id.* The party asserting collateral estoppel has the burden of showing that it
6 applies. *Avery*, 57 P.3d at 303-04. In general, collateral estoppel will not bar relitigation
7 of issues that were tangential or inconsequential in the prior action. *Barr v. Day*, 854
8 P.2d 642, 648 (Wash. Ct. App. 1993). Additionally, “[a] court will not apply collateral
9 estoppel if, because of ambiguity or indefiniteness, it is unclear whether the issue was
10 previously determined.” *Estate of Sly v. Linville*, 878 P.2d 1241, 1243 (Wash. Ct. App.
11 1994) (citing *Henderson v. Bardahl Int’l Corp.*, 431 P.2d 961, 967 (Wash. 1967)).

12 **E. Collateral Estoppel Does Not Apply Here**

13 Ms. Mansfield has not met her burden of demonstrating the four prerequisites for
14 collateral estoppel. *See Avery*, 57 P.3d at 303-04. She has not shown that identical issues
15 were decided in the previous action, nor has she shown that the same parties were
16 involved or that injustice would not result. *See Christensen*, 96 P.3d at 961. In essence,
17 she has not demonstrated that the Defendants in this case have had a full and fair
18 opportunity to litigate the issues she claims should now be subject to a relitigation bar.
19 As such, collateral estoppel does not apply. *See Avery*, 57 P.3d at 303-04.

20 The previous action took place in front of Washington’s Board of Industrial
21 Insurance Appeals (“BIAA”). After her alleged injury, Ms. Mansfield filed a claim for
22 workers compensation benefits with the Department of Labor and Industries (“L&I”).

1 (BIAA Decision and Order (Dkt. # 20-2) at 1-2.) L&I denied Ms. Mansfield’s claim,
2 finding that there was insufficient proof that she had been injured. (*Id.*) Ms. Mansfield
3 appealed her denial but L&I affirmed, so she appealed again—this time to the BIAA.
4 (*Id.*) The BIAA heard testimony related to the matter on three separate days in the
5 summer of 2013. (*Id.*) Ms. Mansfield and Ms. Pfaff both testified, as did several other
6 witnesses, none of whom are named defendants in this case. (*Id.*) On October 23, 2013,
7 the BIAA issued an order reversing L&I’s denial of benefits. (*See id.* at 16.) The
8 BIAA—specifically, Industrial Appeals Judge Mychal Schwartz—found that “Ms.
9 Mansfield sustained an injury in the course of employment on March 9, 2011, when she
10 was assaulted while at work” (*Id.* at 15.) Ms. Mansfield argues that this decision
11 has preclusive effect on the case at hand and that the court should accordingly treat it as
12 undisputed fact that (1) Ms. Pfaff assaulted her; and (2) Ms. Pfaff and other defendants
13 lied to cover it up. (*See Mot.* at 7-10, 16-19.)

14 Ms. Mansfield is correct, in general, that decisions of administrative tribunals can
15 have preclusive effect in subsequent litigation if certain requirements are met. *See, e.g.,*
16 *Christensen*, 96 P.3d at 961. Courts must evaluate, for example, whether the agency
17 acted within its competence, the differences between procedures in the administrative
18 proceeding and the court procedures, and public policy considerations. *Id.* However, in
19 this case these additional requirements do not even come into play because Ms. Pfaff has
20 not made a basic showing that the elements of collateral estoppel are fulfilled with
21 respect to the BIAA decision.
22

1 To begin, the issues in the two cases are not identical. For there to be identity of
2 issues, it must be “clear the same issues were litigated in the prior action.” *Mead v. Park*
3 *Place Props.*, 681 P.2d 256 (Wash. Ct. App. 2001). If there is any uncertainty about
4 identity of issues, collateral estoppel is not appropriate. *Id.* As a corollary, when an issue
5 is not reached in prior litigation, that issue cannot have collateral estoppel effect in
6 subsequent litigation. *Id.*

7 Here, Ms. Mansfield seeks to have the court apply collateral estoppel to issues that
8 the BIAA simply did not reach in the previous matter. She wishes to apply collateral
9 estoppel to find that Ms. Pfaff assaulted her, but the BIAA was careful not to decide that
10 issue. (BIAA Decision and Order at 14-15.) The BIAA simply found that “Ms.
11 Mansfield sustained an injury . . . when she was assaulted at her desk” (*Id.* at 15
12 (Finding of Fact 2).) In fact, the BIAA pointed out in a footnote that “[n]otwithstanding
13 the efforts of counsel to put Ms. Jones-Pfaff on trial for the assault, the question is not
14 who committed the assault, but rather, whether an assault occurred at all.” (*Id.* at 15
15 n.13.) Thus, the BIAA expressly declined to make the very finding that Ms. Mansfield
16 would now have the court give preclusive effect. (*See id.*) Ms. Mansfield also wishes to
17 apply collateral estoppel to find that Defendants lied to cover up Ms. Pfaff’s assault.
18 (Mot. at 7-10, 16-19.) But the BIAA did not decide this issue either. The BIAA instead
19 concluded that there was a “possibility” that Defendants were “circling the wagons to
20 protect themselves and the study against a thorn in their collective side.” (BIAA
21 Decision and Order at 15.) A finding that a state of affairs is “possible” is not tantamount
22 to a finding that it occurred, and the court “will not apply collateral estoppel if, because

1 of ambiguity or indefiniteness, it is unclear whether the issue was previously
2 determined.” *Estate of Sly*, 878 P.2d at 1243. Ms. Mansfield simply has not
3 demonstrated, as she must, that the issues in this case are the same as in the BIAA appeal.
4 *See Christensen*, 96 P.3d at 961.

5 Further, the parties are different. In general, collateral estoppel can apply only to
6 parties to the original litigation and parties in privity with such parties. *See, e.g.,*
7 *Christensen*, 96 P.3d at 961. “Privity” describes a “mutual or successive relationship to
8 the same right or property.” *World Wide Video of Wash., Inc. v. City of Spokane*, 103
9 P.3d 1265, 1274 (Wash. Ct. App. 2005). “Its binding effect flows from the fact that the
10 successor who acquires an interest in the right is affected by the adjudication in the hands
11 of the former owner.” *Id.*

12 This action and the BIAA action do not have identical parties. In the BIAA
13 action, the parties were (1) Ms. Mansfield, and (2) L&I. None of the defendants in this
14 action were parties in the BIAA action, nor have any of them succeeded to L&I’s interest
15 in its dispute against Ms. Mansfield. And although Ms. Mansfield argues that Ms. Pfaff
16 can be treated as a party in the BIAA action because she testified as a witness in that
17 action (*see* Mot. at 19 (citing *Hackler v. Hackler*, 683 P.2d 241, 243 (Wash. Ct. App.
18 1984))), the same argument cannot be made for the other defendants in this action.
19 Moreover, even Ms. Pfaff is not presently a party to this action (*see* Dkt.), the United
20 States having been substituted for her (*see* Pfaff/Reichow Not. of Substitution), and there
21 is no question that the United States was not a party to the BIAA action (*see generally*
22 BIAA Decision and Order; USA Resp. Ex. A (“I don’t think the United States is a party

1 to this in any manner.”)). Accordingly, Ms. Mansfield has not met her burden of
2 demonstrating that there is an identity of parties of the kind required to support collateral
3 estoppel. *See Christensen*, 96 P.3d at 961.

4 Last, it would work an injustice to apply the collateral estoppel doctrine. This is
5 primarily true for the reasons already discussed above. In determining whether it would
6 be unjust to apply collateral estoppel, courts generally focus on whether the affected
7 parties have already had a full and fair opportunity to litigate their claim in a neutral
8 forum. *Nielson By and Through Nielson v. Spanaway Gen. Med. Clinic, Inc.*, 956 P.2d
9 312, 317 (Wash. 1998). Here, as discussed above, they have not. Because Defendants
10 were not parties to the previous litigation and because different issues were being
11 decided, Defendants have had no opportunity to litigate their claims—i.e., present a
12 defense and call witnesses to dispute Ms. Mansfield’s version of events. Their rights
13 were not at stake in the BIAA proceeding, they did not appear in the BIAA proceeding,
14 and it would be unfair to give the BIAA proceeding preclusive effect against them.

15 For the reasons described above, the doctrine of collateral estoppel does not apply
16 here.

17 **F. The Remainder of Ms. Mansfield’s Motion is Denied**

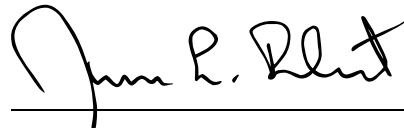
18 The remainder of Ms. Mansfield’s requests for summary judgment relief are
19 founded on her assertion that the collateral estoppel doctrine creates a set of undisputed
20 facts that permits various conclusions of law. Because the court has concluded that
21 collateral estoppel does not apply, Ms. Mansfield’s arguments fail and summary
22 judgment is not appropriate. In any event, Defendants vigorously dispute all of the facts

1 Ms. Mansfield would have the court treat as undisputed. As such, it cannot be said that
2 there is no genuine dispute of material fact here. *See Galen*, 477 F.3d at 658.

3 **IV. CONCLUSION**

4 For the foregoing reasons, Ms. Mansfield's motion for partial summary judgment
5 (Dkt. # 20) is DENIED.

6 Dated this 27th day of August, 2014.

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10 JAMES L. ROBART
United States District Judge